

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

PRECIOUS LYKES)
11409 Continental Avenue)
Cleveland, OH 44104)
)
Plaintiff,)
) Case No.
v.)
)
DELANOR KEMPER & ASSOCIATES) Division No.
142 Mitchell Street SW, Suite 300)
Atlanta, GA 30303-3432)
)
Defendant.)

PLAINTIFF'S COMPLAINT AND DEMAND FOR JURY TRIAL

PRECIOUS LYKES (Plaintiff), by her attorneys, KROHN & MOSS, LTD., alleges the following against the DELANOR KEMPER & ASSOCIATES (Defendant):

INTRODUCTION

1. Count I of Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, *15 U.S.C. 1692 et seq.* (FDCPA).

JURISDICTION AND VENUE

2. Jurisdiction of this court arises pursuant to *15 U.S.C. 1692k(d)*, which states that such actions may be brought and heard before "any appropriate United States district court without regard to the amount in controversy," and *28 U.S.C. 1337* grants this court supplemental jurisdiction over the state tort claims alleged.
3. Defendant conducts business in the state of Ohio, and therefore, personal jurisdiction is established.
4. Venue is proper pursuant to *28 U.S.C. 1331(b)(1)*.

5. Declaratory relief is available pursuant to *28 U.S.C. 2201 and 2202*.

PARTIES

6. Plaintiff is a natural person residing in Cleveland, Cuyahoga County, Ohio.
7. Plaintiff is a consumer as that term is defined by *15 U.S.C. 1692a(3)*, and according to Defendant, Plaintiff allegedly owes a debt as that term is defined by *15 U.S.C. 1692a(5)*.
8. Defendant is a debt collector as that term is defined by *15 U.S.C. 1692a(6)*, and sought to collect a consumer debt from Plaintiff.
9. Defendant is a national company debt collector and conducts business in Ohio.
10. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

FACTUAL ALLEGATIONS

11. Defendant constantly and continuously places collection calls to Plaintiff on her cell phone and home phone seeking and demand payment for an alleged debt.
12. Defendant told Plaintiff that he is “sick of black women not paying there bills and passing bad checks through state lines.”
13. Defendant threatened to arrest Plaintiff if she did not pay her alleged debt (see Exhibits A and B).
14. Defendant threatened to put Plaintiff in jail if she did not pay her alleged debt (see Exhibits A and B).
15. Defendant threatened Plaintiff would be on probation if she did not pay her alleged debt

(see Exhibits A and B).

16. Defendant threatened to file a lawsuit against Plaintiff, but did not and has not filed one.
17. Defendant threatened to garnish Plaintiff's wages, but did not and has not done so.
18. Defendant failed to identify itself as a debt collector in subsequent communications.
19. Defendant is attempting to collect a debt from Plaintiff that she does not owe.

COUNT I
DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT

20. Defendant violated the FDCPA based on the following:

- a. Defendant violated §1692d(2) of the FDCPA by telling Plaintiff he is "sick of black women not paying there bills and passing bad checks through state lines."
- b. Defendant violated §1692d(5) of the FDCPA by causing a telephone to ring and engaging Plaintiff in telephone conversations repeatedly and continuously with the intent to annoy, abuse, and harass Plaintiff.
- c. Defendant violated §1692e(2)(A) of the FDCPA by falsely representing the character, amount, and legal status of Plaintiff's alleged debt because Plaintiff does not owe the debt.
- d. Defendant violated §1692e(4) of the FDCPA by representing that nonpayment will result in garnishing Plaintiff's wages even though Defendant did not and does not intend to take such action.
- e. Defendant violated §1692e(5) of the FDCPA by threatening to take legal action against Plaintiff even though Defendant did not and does not intend to take such action.
- f. Defendant violated §1692e(5) of the FDCPA by threatening to send Plaintiff to

jail even though such action cannot legally be taken.

- g. Defendant violated §1692e(5) of the FDCPA by threatening to arrest Plaintiff even though such action cannot legally be taken.
- h. Defendant violated §1692e(5) of the FDCPA by threatening Plaintiff would be on probation even though such action cannot legally be taken.
- i. Defendant violated §1692e(10) of the FDCPA by using false representations and deceptive means in an attempt to collect a debt because Defendant threatened legal action, jail, arrest, probation, and garnishment, even though Defendant did not intend to take such action and/or such action could not legally be taken.
- j. Defendant violated §1692e(10) of the FDCPA by using false representation and deceptive means in an attempt to collect a debt because Plaintiff does not owe this debt.
- k. Defendant violated §1692e(11) of the FDCPA by failing to disclose in subsequent communications that the communication is from a debt collector.
- l. Defendant violated §1692f(1) of the FDCPA by attempting to collect an alleged debt that is not authorized by the agreement and that is not permitted by law because Plaintiff does not owe the debt.

21. As a direct and proximate result of one or more or all of the statutory violations above Plaintiff has suffered emotional distress (see Exhibit C).

WHEREFORE, Plaintiff, PRECIOUS LYKES, respectfully requests judgment be entered against Defendant, DELANOR KEMPER & ASSOCIATES, for the following:

22. Declaratory judgment that Defendant's conduct violated the Fair Debt Collection Practices Act,

23. Statutory damages pursuant to the Fair Debt Collection Practices Act, *15 U.S.C. 1692k*,
24. Actual damages,
25. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act, *15 U.S.C. 1692k*
26. Any other relief that this Honorable Court deems appropriate.

DEMAND FOR JURY TRIAL

Plaintiff, PRECIOUS LYKES, requests a jury trial in this case.

RESPECTFULLY SUBMITTED,

By: /s/: Peter Cozmyk
Peter Cozmyk,
Attorney for Plaintiff

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VERIFICATION OF COMPLAINT AND CERTIFICATION

STATE OF OHIO

Plaintiff, PRECIOUS LYKES, states the following:

1. I am the Plaintiff in this civil proceeding.
2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification or reversal of existing law.
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this Complaint in good faith and solely for the purposes set forth in it.
6. Each and every exhibit I have provided to my attorneys which has been attached to this Complaint is a true and correct copy of the original.
7. Except for clearly indicated redactions made by my attorneys where appropriate, I have not altered, changed, modified or fabricated these exhibits, except that some of the attached exhibits may contain some of my own handwritten notations.

Pursuant to 28 U.S.C. § 1746(2), I, PRECIOUS LYKES, hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

02/06/09
Date


PRECIOUS LYKES

EXHIBIT A

Precious Lykes's Case Overview

On October 09 I had a disturbing call from a man at Delanor, Kemper the man told me that his name was Investigator Londy and he told me that a warrant was release for my arrest if I don't pay this debt off he said that I owed them 1107.00 I advised him that when I paid back the loan back in 2005 then he called me liar and I told him that he don't have to talk like that to me then he became very angry and told me that I was playing games and he is not trying to play games with me and I need to pay him or he was going to throw me in jail, I told him that the bill has already been paid. Mr. Londy said that if I don't pay these I will be placed in jail and maybe if they judge was having a good day he will consider probation. At the time I became scared but I didn't let him know that I wasn't then he proceeded to tell me that he is sick of black women not paying there bills and passing bad checks through state lines. At that time I told him what that has to do with me. He then said that if I don't pay this bill he will put me in jail then I got really scared then I told him that I told him that I cant pay that all at once then he ask me do I have bail money I told him that he don't have to threat me because he is out of line then I ask to speak with a supervisor he told me no then he started yelling at me saying that I need to pay this bill. Then I told him that I can pay in 3 installment I told him that I don't have a checking account he said that he pulled my credit reporting and he see that I do have a checking account with meta bank. I told him that I will setup the pmts and when I find out that I paid it I want them to refund my money back I did provide him with my prepaid card. Then he said that he will send me out a letter with the payments on it. I told him that he better because this is ridiculous and then he hung up.

Then I called the corporate office of ace check cashing and they told me that my balance was paid in full and they don't know why they are calling me and they never heard of a company like that and they had a lot of people calling complaining about that collection agency. Linda the rep from the corporate office told me that I need to call Meta bank to stop payment on the payments. Then when I called the bank they told me that they already took out 369.00 I immediately called Mr. Londy and he told me that I will have to call him Mel Clark I said I that your name was Mr. Londy he said it is but they told me not to use my real name I told him that he will need to refund my money back because ace corporate told me that I don't owe nothing then he told me to hold on and he got his supervisor name Isaac Mann and he told me that he will have to call ace corporate to see if I was telling the truth and if I was lying then he will proceed in filing charges against me, then he placed me on hold for a very long time. Then Isaac came back to the phone and he said that I was right and my money will be refunded back to me within 2 to 3 days. Monday I can Isaac and I told him that it wasn't in my account yet then that when he got smart and then he said that I need to get a letter from ace that shows that I paid it in full. I got so mad and I told him that he will need to put my money back in my account he started laughing and then he hung up on me. Then I call Mel Clark or Mr. Londy or whoever this man is and told him that I demand my money back he told me good luck in getting that back then he hung up.

EXHIBIT B

Precious Lykes's mother's case overview

My daughter called me on Oct 09,2008 and she was crying and saying that a Mr. Londy called her and told her that she was going to be arrested and possible probation. My daughter was very upset because he called her a threaten her and as a mother I feel like that is not right for a collection agency to represent there company as investigators that not right at all. My daughter told me that she don't owe that and that she was scared. She states that she setup 3 for the amount of 369.00 to pay off the debt so I told her that they cant make you pay something that you already had paid she says that she was scared and that she didn't want to go to jail. So I informed her that she will need to call and report that and that's when i heard her on the phone with a attorney from you firm. I understand that there are companies that call to collect on a debt but that was very uncalled for how they treated my daughter. Thanks for your time

Doris Nash-Sims

EXHIBIT C

I have suffered from the following due to, or made worse by, the actions of the Defendant's debt collection activities:

1. Sleeplessness	<input type="radio"/> YES	NO
2. Fear of answering the telephone	<input type="radio"/> YES	NO
3. Nervousness	<input type="radio"/> YES	NO
4. Fear of answering the door	<input type="radio"/> YES	NO
5. Embarrassment when speaking with family or friends	<input type="radio"/> YES	NO
6. Depressions (sad, anxious, or "empty" moods)	<input type="radio"/> YES	NO
7. Chest pains	<input type="radio"/> YES	NO
8. Feelings of hopelessness, pessimism	<input type="radio"/> YES	NO
9. Feelings of guilt, worthlessness, helplessness	<input type="radio"/> YES	NO
10. Appetite and/or weight loss or overeating and weight gain	<input type="radio"/> YES	NO
11. Thoughts of death, suicide or suicide attempts	<input type="radio"/> YES	NO
12. Restlessness or irritability	<input type="radio"/> YES	NO
13. Headache, nausea, chronic pain or fatigue	<input type="radio"/> YES	NO
14. Negative impact on my job	<input type="radio"/> YES	NO
15. Negative impact on my relationships	<input type="radio"/> YES	NO

Other physical or emotional symptoms you believe are associated with abusive debt collection activities:

I feel like I have been violate And strip of My dignity and self-worth. I'm angry that I was disrespected and discriminate against. I want these people to pay for this improper collection activities.

Pursuant to 28 U.S.C. § 1746(2), I hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

Dated: 02/06/09

Precious Lyles

Signed Name
Precious Lyles

Printed Name